

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 03-CR-80139-DT
06-CV-13091-DT

CHRISTOPHER LEE BENSON,

Defendant.

**OPINION AND ORDER DENYING THE GOVERNMENT’S “MOTION TO STRIKE . . .,”
DENYING DEFENDANT’S “MOTION FOR ORDER TO SHOW CAUSE . . .,”
AND SETTING NEW BRIEFING DEADLINES**

On July 7, 2006, Defendant Christopher Lee Benson filed a motion pursuant to 28 U.S.C. § 2255. The court ordered the Government to respond by October 10, 2006. The Government did not timely respond. Therefore, on October 20, 2006, Defendant filed a motion requesting that the court issue an order to show cause why Defendant’s § 2255 motion should not be granted. Four days later, the Government filed a motion to strike Defendant’s § 2255 motion, arguing that the motion should be stricken because it was supported by a brief 44 pages long.

Having reviewed the recently filed motions and responses, the court will not strike Defendant’s lengthy § 2255 motion. Although the local rules specify that briefs in support of motions shall be limited to 20 pages in length, see E.D. Mich. LR 7.1(c)(3), the court is not persuaded that this rule necessarily applies to § 2255 motions, which are similar to complaints or opening petitions that do not have page limitations. To the extent that the local rules do impose the page limitation on § 2255 motions, the court

will exercise its discretion and allow the lengthier brief in this case. However, given the length of the § 2255 motion, the court finds that the Government is entitled to additional time to respond to the motion. Accordingly, the court will deny Defendant's order to show cause and impose new briefing deadlines on the parties.

IT IS ORDERED that Defendant Christopher Lee Benson's "Motion for Order to Show Cause Why the Relief Requested by Petitioner Benson Should Not Be Granted" [Dkt. # 74] and the Government's "Motion to Strike Defendant's Motion Filed Pursuant to 28 U.S.C. § 2255" [Dkt. # 75] are DENIED.

IT IS FURTHER ORDERED that the Government shall file a response to Defendant's § 2255 motion by **December 27, 2006**. Defendant's reply, if any, shall be filed by **January 17, 2007**.

S/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: November 29, 2006

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, November 29, 2006, by electronic and/or ordinary mail.

S/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522